

FILED BY  D.C.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

05 OCT 13 AM 7:09

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TENNESSEE

JERRY BRACK,

Plaintiff,

v.

SHONEY'S, INC. d/b/a,
CAPTAIN D'S #3126

Defendant.

Docket No: 01-2997 D/V


ORDER

This matter came to be heard upon the joint motion of the parties pursuant to Fed. R. Cir. P. 60(b), as contemplated in *First National Bank of Salem, Ohio v. Hirsch*, 535 F.2d 343 (6th Cir. 1976), asking this Court to enter the parties proposed Stipulation and Order Vacating Judgment, Vacating Order Awarding Attorneys' Fees, and Dismissing Plaintiff's First Amended Complaint With Prejudice.

Considering the parties desire to settle and the entire record, the Court is of the opinion, and so finds, that should the case be remanded to it by the Court of Appeals for the Sixth Circuit, this Court is inclined to grant the relief requested.

IT IS, THEREFORE, ORDERED BY THE COURT that if this case is remanded to the District Court by the Court of Appeals, this court is disposed to grant the parties' Fed. R. Civ. P. 60(b) motion.

ENTERED this 12th day of October, 2005.


BERNICE B. DONALD
UNITED STATES DISTRICT COURT JUDGE

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Honorable Bernice Donald
US DISTRICT COURT